

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re: ) Chapter 11  
 )  
CIRCUIT CITY STORES, INC., et al., )  
 ) Case No.: 08-35653  
 )  
Debtors. ) Jointly Administered

**OBJECTION BY RIO ASSOCIATES LIMITED PARTNERSHIP  
TO PROPOSED CURE AMOUNT  
(Store #1604 Charlottesville, VA)**

Rio Associates Limited Partnership ("Rio"), by counsel, hereby objects to the proposed cure amount set forth in "Exhibit B – Cure Amounts by Store" (the "Cure Exhibit") to the Debtor's Motion for Orders under 11 U.S.C. §§ 105 (363 and 365) (I) approving bidding and auction procedures for sale of unexpired non-residential real property leases for closing stores, (II) setting sale hearing date, and (III) authorizing and approving (A) sale of certain non-residential real property leases free and clear of liens, claims, and encumbrances, (B) assumption and assignment of certain unexpired non-residential real property leases, and (C) lease rejection procedures (the "Motion") filed by the Debtors in the above captioned jointly administered cases and state as follows:

1. Rio leases "Store #1604" with an address of 100 Albemarle Square, Charlottesville, Virginia 22901 to Circuit City Stores, Inc. ("Debtor").

David D. Hopper (VSB # 30038)  
Cook, Heyward, Lee, Hopper & Feehan, P.C.  
4551 Cox Road, Suite 210  
P. O. Box 3059  
Glen Allen, VA 23058-3059  
Telephone: (804) 747-4500  
Facsimile: (804) 762-9608  
E-mail: [ddhopper@chlhf.com](mailto:ddhopper@chlhf.com)

*Counsel for Rio Associates Limited Partnership*

2. In the Cure Exhibit the Debtors state that the total cure amount for Store #1604 is \$2,714.00. The Debtor's statement of the pre-petition "Cure Amount" is incorrect.

3. Subject to reservations set forth below, the correct pre-petition "Cure Amount" as defined by the Debtor with respect to Store #1604 is not less than \$20,555.00, based on the following computation:

November base rent pro-rated through 11-09-08: \$2,232.00

Accrued, unpaid CAM through 11-09-08: \$7,283.00

Accrued, unpaid real estate taxes through 11-09-08: \$11,040.00

This amount is based on the pre-petition portion of November base rent and additional charges accrued but unpaid through November 09, 2008. This amount only relates to pre-petition amounts due under the lease for Store #1604 and does not reflect what may be a true Cure Amount at the time that the lease may be assumed by the Debtor.

Attached as Exhibits A and B, respectively, are documentation of the CAM charges and taxes.

4. The "Cure Amount" set forth above does not include rent, charges, and taxes relating to the post-petition period beginning on and after November 10, 2008 to the extent that they are not paid by the Debtor prior to the date that the Debtor may attempt to assume the lease.

5. The correct "Cure Amount" is based on the best information now available to Rio and is set forth with full reservation of rights to modify such "Cure Amount" as such additional information becomes available to Rio. The "Cure Amount" does not include such additional items as attorneys' fees, interest, and other claims

against the Debtor under the lease and the actual pecuniary losses suffered by Rio that result from the Debtor's defaults under the lease. Rio expressly reserves the right to increase the "Cure Amount" to include those and other items at such time as they materialize and/or may be computed.

6. Rio hereby reserves all of its rights and remedies, including but not limited to the right to object to any proposed assumption and assignment of its lease.

WHEREFORE, Rio objects to the Debtor's statement of the "Cure Amount" attached to the Debtor's Exhibit B of its motion and requests that, in the event the Debtor attempts to assume and assign the Lease, the Court fix the "Cure Amount" for the lease as set forth above and grant such other relief as appropriate.

Dated: December 17, 2008

Cook, Heyward, Lee, Hopper & Feehan, PC

By: /s/ David D. Hopper  
David D. Hopper, Esquire (VSB #30038)  
Cook, Heyward, Lee, Hopper & Feehan, PC  
4551 Cox Road, Suite 210  
P.O. Box 3059  
Glen Allen, Virginia 23058  
Telephone: (804) 747-4500  
Facsimile: (804) 762-9608  
*Counsel for Rio Associates  
Limited Partnership*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of December, 2008, a true and correct copy of the foregoing was served on all persons receiving electronic notice in these cases and that a true and correct copy of same was served via first class U.S. Mail, postage prepaid, on:

Robert B. Van Arsdale  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219  
*Assistant United States Trustee*

Dion W. Hayes  
McGuire Woods LLP  
One James Center  
901 East Cary Street  
Richmond, VA 23219  
*Counsel for the Debtors*

Greg M. Galardi  
Ian S. Frederick  
Skadden, Arps, Slate, Meagher & Flom  
One Rodney Square  
P. O. Box 636  
Wilmington, DE 19899-0636  
*Counsel for the Debtors*

/s/ David D. Hopper



# Dumbarton Properties

Incorporated

7113 Staples Mill Road • P.O. Box 9462 • Richmond, Virginia 23228 • (804) 266-4969  
Telecopier: (804) 266-4977

December 11, 2008

Circuit City Stores, Inc.  
Attn: Corporate Secretary  
9950 Mayland Drive  
Richmond, VA 23233-1464

**RE: CAM BILLING - CIRCUIT CITY LOCATION #1604  
ALBEMARLE SQUARE SHOPPING CENTER  
CHARLOTTESVILLE, VIRGINIA**

The 2008 charges for Common Area Maintenance through November 2008 have been computed as follows:

Circuit City Sq.Ft.	28,296
Total of Center	179,207
Pro Rata Share	.1578

TOTAL CAM CHARGES (through November 2008)	\$ 66,110.49
PRO RATA SHARE (CIRCUIT CITY)	10,432.24
CIRCUIT CITY CEILING (\$0.30 Sq.Ft.)	8,488.90

A listing of the 2008 Common Area Maintenance charges is attached.

Please send your check, in the amount of \$8,488.90, payable to Dumbarton Properties, Inc. Thank you.

Sincerely,

Jeane M. Vesely  
Accounting/Lease Administration

Enclosure

**EXHIBIT**

A

**SHOPPING CENTERS / COMMERCIAL & INDUSTRIAL PROPERTY**  
Leasing • Management • Marketing • Consulting • Sales  
**REAL ESTATE BROKERS**

12/11/2008

ALBEMARLE SQUARE 2008  
COMMON AREA MAINTENANCE

	2008
	YR-TO-DATE
Sweeping	13,970.00
Landscape-Contract	4,620.00
Landscape - Plants/Mulc	696.00
Landscape-Other	5,940.35
Muzak	0.00
Pkg Lot Lights	22,090.22
Pkg & Canopy Lt Repair	3,881.47
Sign expense	967.85
Snow removal	435.00
Blacktop/Striping	490.00
Miscellaneous	1,890.00
Dumpster	4,229.60
Sidewalk Repair	6,900.00
Column Repair	0.00
 TOTAL	 66,110.49



# Dumbarton Properties

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7113 Staples Mill Road • P.O. Box 9462 • Richmond, Virginia 23228 • (804) 266-4969

Telecopier: (804) 266-4977

December 5, 2008

Circuit City Stores, Inc.  
Attn: Corporate Secretary  
9950 Mayland Drive  
Richmond VA 23233-1464  
Attn: Real Estate

*Certified #7006 0100 0003 8698 7652  
Return Receipt Requested*

**RE: REAL ESTATE TAXES 2008**  
**ALBEMARLE SQUARAE SHOPPING CENTER-STORE #03164**  
**CHARLOTTESVILLE, VA**

The Real Estate Taxes on the above referenced store are now due. Computations have been done as follows:

Assessment of your building, as well as land Under you building, (as per letter enclosed)	\$1,469,300
Land 24.303 AC x 43,560 sq. ft./AC =	1,058,639 sq.ft.
Value of Land = \$9.00 sq.ft.	
Billed to Out Parcels	155,946 sq.ft.
Billed to In-Line Stores	
Including Circuit City (land under bldgs)	<u>186,263 sq.ft.</u>
Total sq.ft. billed to others (land only)	342,209 sq.ft.
Remaining land (Common Area)	716,430 sq.ft. x \$9.00 sq.ft.
Value of Common Area Land	\$6,447,870 @ \$9.00 per sq.ft.
Circuit City's Share of Common Area Land	<u>1510</u> \$ 973,628
Assessment of Building & Land Under Building	\$1,469,300
TOTAL (Circuit City's share of Land, Building & And Common Area	\$2,442,928
2008 TAX RATE	<u>.0071/\$100</u>
TOTAL 2008 TAXES	17,344.79
LESS: BASE YEAR TAXES TAXES DUE	<u>4,482.00</u> \$12,862.79

EXHIBIT

B

tabbies®

Your check, within 30 days, will be appreciated. A copy of the 2008 tax bill is enclosed.

Sincerely,  
DUMBARTON PROPERTIES, INC.

SHOPPING CENTERS / COMMERCIAL & INDUSTRIAL PROPERTY  
Leasing • Management • Marketing • Consulting • Sales  
REAL ESTATE BROKERS



COUNTY OF ALBEMARLE  
Department of Finance  
Real Estate Division  
401 McIntire Road  
Charlottesville, Virginia 22902-4596  
(434) 296-5856

December 1, 2008

Ms. Jeane M. Vesely  
Dumbarton Properties, Inc.  
P O Box 9462  
Richmond, Va. 23228.

RE: Albemarle Square Shopping Center

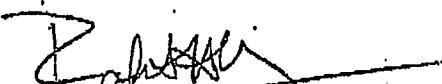
Dear Ms. Vesely:

I'm writing in response to your request for the total amount of annual taxes due on certain tenants located in the shopping center referenced above. The tax rate for this year is .0071 per one hundred dollars of assessed value. The assessed values for those tenants are as follows:

Tenant	Assessment	Taxes
Circuit City	\$1,469,300	\$10,432.03

If you need anything further, please don't hesitate to contact me.

Sincerely,

  
Robert H. Willingham  
County Assessor



COUNTY OF ALBEMARLE

DEPARTMENT OF FINANCE  
401 MCINTIRE ROAD, CHARLOTTESVILLE, VA 22902-4596

2008 REAL ESTATE TAX RATE \$0.71 PER \$100

(434) 296-585

TDD 71

[www.albemarle.org](http://www.albemarle.org)

PARCEL 06100-00-00-12300  
ACREAGE 24.303  
LEGAL 1  
LEGAL 2 ACREAGE  
DISTRICT RIO  
MORTGAGE

FILE NAME 1/1/2008 RIO ASSOCI  
LAND VALUE 9,527,800  
BUILDING VALUE 11,211,500  
LAND USE DEFERRAL 0.00  
EXEMPTION 0.00

BENEFIT NUMBER	PROPERTY DESCRIPTION	MONTHS ASSESSED	ASSESSMENT	TAXES DUE		INTEREST	PENALTY
				TOTAL DUE IN PAYMENT	INTEREST DUE IN PAYMENT		
2008130536	11TH MONTH 2008	12	10,759,300	7,524.52	1,024.52	13,624.52	
2008130536	1ND MONTH 2008	12	10,759,300	7,524.52	1,024.52	13,624.52	
				TOTAL DUE INCLUDING 2ND MONTH	INTEREST DUE INCLUDING 2ND MONTH		

SPECIAL INSTRUCTIONS

IF TAXES ARE ESCROWED IT IS THE RESPONSIBILITY OF THE TAXPAYER TO CONTACT THEIR MORTGAGE COMPANY TO ENSURE ALL PAYMENTS, INCLUDING SUPPLEMENTAL OBLIGATIONS, ARE PAID BY THE DUE DATE.

Please see reverse side of this form for additional information.